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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,157	01/24/2001	Edward O. Clapper	42390P10898	5252
21906	7590	04/27/2004	EXAMINER	
TROP PRUNER & HU, PC 8554 KATY FREEWAY SUITE 100 HOUSTON, TX 77024			RAMAKRISHNAIAH, MELUR	
			ART UNIT	PAPER NUMBER
			2643	
DATE MAILED: 04/27/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	JW
	09/769,157	CLAPPER, EDWARD O.	
	Examiner Melur Ramakrishnaiah	Art Unit 2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 20 February 2004.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 and 57-75 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-20 and 57-75 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 6, 8-11, 14-15, 17-18, 20, 57, 60, 61-63, 66, 69, 70-72 are rejected under 35 U.S.C 102(b) as being anticipated by Nishiuchi (JP 05-089558).

Regarding claims 1, 14, Nishiuchi discloses method and apparatus comprising: storing a clip of media stream at a first time, the clip less than all of first portion of the media stream, finding the clip in the media stream at a second time latter than the first time, and storing the first portion of the media stream greater than and including the clip (Drawings: 1-3, paragraphs: 0005-0009), a receiver (Drawing 1) to receive media stream, a capture trigger to designate a clip of media stream, a storage system (4, Drawing 1) coupled to the receiver to store the clip and a processing system (8, Drawing 1) coupled to the storage system to search for the clip in the media stream after storage of the clip (Drawings:1-3, paragraphs: 0005-0009).

Regarding claims 61, Nishiuchi further teaches the method comprising: storing a clip of media stream at a first time, at a time latter than the first time, finding one or more blocks in the media stream, the one or more blocks including the clip, and selectively comparing at least two blocks (paragraph: 0006).

Regarding claim 70, Nishiuchi further teaches an article comprising machine readable storage medium containing instructions that if executed enable a system to:

store a clip of media stream at a first time, the clip less than all of a first portion of the media stream, find clip in the media stream at a second time latter than the first time, and store the first portion media stream greater than and including the clip (Drawings: 1-3, paragraphs: 0005-0009).

Regarding claims 2-4, 6, 8-11, 15, 17-18, 20, 57, 60, 62-63, 66, 69, 71-72, Nishiuchi further teaches the following: performing digital signal processing upon a window of the media stream to produce digital signal processing window result, comparing the digital signal processing window result to the digital signal processing clip result (paragraphs: 0006-0007), identifying the start point of the first portion and an end portion of the first portion from the media stream, and storing the media stream from the start point to the end point, again finding the clip in the media stream, and storing another portion of the media stream greater than and including clip, media stream comprises audio, media stream comprises video, media stream comprises television, receiving parameters, and wherein at least one of finding and storing are responsive to parameters, parameters comprise at least one of: an estimated time into the first portion that a trigger was activated, a length of possible block to watch, etc (Drawings: 1-3, paragraphs: 0005-0009), a block manager in (8, Drawing: 1) to store a block of media stream to storage system, the clip is a subset of the block, the receiver is coupled to receive the media stream over a wireless broadcast channel, an output device (6, Drawing: 1) coupled to the receiver to play the media stream, processing system comprises a block manager in (8, Drawing: 1), the block manager containing instructions that, if executed enable the processor to locate at least a one block of

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media stream, the block including the clip, storage comprises a clip storage (4, Drawing: 4) to store the clip, block storage (6, Drawing: 1) to store one or more blocks, stream storage (6) to store media stream, finding one or more blocks includes identifying the clip in the media stream, storing one or more blocks, strong one or more blocks includes identifying a start point and end point of a given block in the media stream, and strong the media stream from the start point to the end point, during play of a particular block after start of the particular block, receiving a signal to record the clip (Drawings: 1-3, paragraphs: 0005-0009).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 5, 58-59, 64-65, 73, are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishiuchi in view of Honma (JP 2000-312323).

Regarding claims 5, 58, 64-65, 73, Nishiuchi does not teach the following: comparing the first portion to other portion, and discarding one of the portions, based on comparison, enable the block manager to compare a first block and a second block, and to discard one of the blocks, based on comparison selecting a better of the blocks, discarding the block that was not selected, instructions to enable the system to compare the first portion, and discard one of the portions based on the comparison.

However, Honma discloses a program reservation video recording apparatus which teaches the following: comparing the first portion to other portion, and discarding one of the portions, based on comparison, enable the block manager to compare a first block and a second block, and to discard one of the blocks, based on comparison selecting a better of the blocks, discarding the block that was not selected, instructions to enable the system to compare the first portion, and discard one of the portions based on the comparison (Drawing: 4, see abstract).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Nishiuchi's system to provide for the following: comparing the first portion to other portion, and discarding one of the portions, based on comparison, enable the block manager to compare a first block and a second block, and to discard one of the blocks, based on comparison selecting a better of the blocks, discarding the block that was not selected, instructions to enable the system to compare the first portion, and discard one of the portions based on the comparison as this arrangement would facilitate the user to discard the unsatisfactory recording of the data and retain the good recording for his use as taught by Honma.

Regarding claim 59, Nishiuchi teaches the following: instructions to enable the block manager to discard a portion of the media stream that does not include the clip (see abstract).

5. Claims 7 and 16, are rejected under 35 U.S.C. 103(a) as being unpatentable over in view of Matsumoto (JP 410055656A).

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Regarding claims 7 and 16, Nishiuchi does not teach the following: audio comprises broadcast radio, media stream comprises a radio block and the block comprises a song.

However, Matsumoto discloses received information-recording system, which teaches the following: audio comprises broadcast radio, and media stream comprises a radio block and the block comprises a song (fig. 1, see abstract).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Nishiuchi's system to provide for the following: audio comprises broadcast radio and media stream comprises a radio block and the block comprises a song as this arrangement would enable the users to record radio programs as taught by Matsumoto.

6. Claims 12-13, 67-68, 74-75, are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishiuchi in view of Hasegawa et al. (US PAT: 6,570,080, filed 5-18-2000, hereinafter Hasegawa).

Regarding claims 12-13, 67-68, 74-75, Nishiuchi does not teach the following: identifying the media content item corresponding to the clip, and obtaining the media content from a source which is different than the media stream, source is an on-line retailer, identifying the block corresponding to the clip and obtaining the block from a source which different than the media stream, obtaining the block from a on-line retailer.

However, Hasegawa discloses method and system for supplying contents via communication network which teaches the following: identifying the media content item corresponding to the clip, and obtaining the media content from a source which is

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different than the media stream, source is an on-line retailer, identifying the block corresponding to the clip and obtaining the block from a source which different than the media stream, obtaining the block from a on-line retailer (col. 2 lines 38-67, col. 3 lines 1-53).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Nishiuchi's system to provide for the following: identifying the media content item corresponding to the clip, and obtaining the media content from a source which is different than the media stream, source is an on-line retailer, identifying the block corresponding to the clip and obtaining the block from a source which different than the media stream, obtaining the block from a on-line retailer as this arrangement would facilitate the user to obtain media content from the alternate sources as taught by Hasegawa, thereby providing user with choices.

7. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nishiuchi in view of Perlman (US PAT: 6,125,259).

Regarding claim 19, Nishiuchi does not teach the following: the receiver is coupled to receive the media stream over a wired broadcast channel.

However, Perlman discloses intelligent and user friendly channel up/down control which teaches the following: the receiver is coupled to receive the media stream over a wired broadcast channel (col. 4 lines 43-61).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Nishiuchi's system to provide for the following: the receiver is coupled to receive the media stream over a wired broadcast channel as this

arrangement would provide another well known system to receive media stream as taught by Perlman.

***Response to Arguments***

8. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.
9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melur Ramakrishnaiah whose telephone number is (703) 305-1461. The examiner can normally be reached on M-F 6:30-4:00; every other F Off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (703)305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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